

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

**§ 18944. Gifts to An Official's or a Candidate's Immediate Family.**

(a) For purposes of Government Code section 82028, a single gift given to both a public official or candidate (hereinafter "official") and one or more members of the official's immediate family is a gift to the official for the full value of the gift.

(b) A gift given to a member or members of an official's immediate family is not a gift to the official unless it confers a personal benefit on the official. A gift given to a member or members of an official's immediate family confers a "personal benefit" on the official for purposes of this regulation, when any of the following factors apply:

(1) Benefit: The official enjoys direct benefit from the gift, except for a benefit of nominal value;

(2) Use: The official uses the gift, and the official's use is not nominal or incidental to the use by the member or members of the official's immediate family;

(3) Discretion and Control: The official exercises discretion and control over who will use the gift or dispose of the gift.

(c) Notwithstanding the provisions of subdivisions (a) and (b), a gift given to a member of an official's immediate family is not a gift to the official, if the official can show that there was no donor intent to make a gift to the official. Factors that may negate a donor's intent to make a gift to a public official include, but are not limited to, the following:

(1) Relationship between donor and recipient: The existence of a working or social relationship between the donor and the official's spouse or immediate family member.

(2) Nature of the gift: It is clear from the nature of the gift that only the official's

immediate family members can use or enjoy direct benefit from the gift.

(3) Manner in which the gift is offered or delivered: The gift is offered or delivered to a member of the official's immediate family in a manner, and under such circumstances, that it is clear there is no intent to make a gift to the official. Such circumstances include a gift offered in writing, or delivered by mail or other written communication, to one or more members of the official's immediate family and the name or familial designation (such as "spouse") of the member or members of the immediate family appear on the envelope or in the communication rendering or offering the gift, and the gift is intended for the family member's or members' use or enjoyment.

Note: Authority cited: Section 83112, Government Code. Reference: Section 82028, Government Code.

#### HISTORY

1. Renumbering of former section 18726.2 to section 18944 filed 1-26-94; operative 1-26-94 pursuant to Government Code section 11346.2(d) (Register 94, No. 4).
2. Change without regulatory effect relocating section filed 11-17-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).
3. Amendment of section heading and section filed 7-24-2006; operative 8-23-2006. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2006, No. 30).